

**REMARKS**

The Applicant respectfully requests reconsideration and Allowance of Claims 1-3, 5, 7-13, 15-17 and 19-20 in view of the amendments presented above and the following arguments.

**35 U.S.C. §103 REJECTIONS**

Claims 1-3, 5-13, 15-17, 19 and 20 were rejected under 35 U.S.C. §103(a) as obvious over U.S. Publication No. US 2002/0035697 to McCurdy et al. in view of U.S. Publication No. 2003/0080999 to Stone et al.

**STATUS OF THE CLAIMS**

Claim 6 has been cancelled.

Claims 1-3, 5, 7-13, 15-17 and 19-20 remain pending in this case.

Independent Claims 1 , 12 and 17 have been amended to add the limitation of the creation of a galley by the remote service provider and the return of the galley to the author for the creation of the commercial grade publication from the galley. Further, the commercial grade publication is distributed as is, without modification. These amendments represent clarifications and do add further limitations to the respective claims.

**CLAIMS 1-3, 5, 7-13, 15-17 and 19-20 ARE NOT OBVIOUS IN VIEW OF THE CITED ART**

The Examiner rejected Claims 1-3, 5-13, 15-17, 19 and 20 under 35 U.S.C. § 103, as obvious over U.S. Publication No. US 2002/0035697 to McCurdy et al. in view of U.S. Publication No. 2003/0080999 to Stone et al. Applicant respectfully traverses these rejections on the ground that McCurdy et al in combination with Stone et al. does not suggest Applicant's invention as now claimed and, further, there is no suggestion in Stone et al. to modify the McCurdy et al. device in the manner now claimed.

### THE MCCURDY ET AL. PUBLICATION

The McCurdy et al. publication claims the benefit of a provisional application for an electronic magazine system for providing a user with "the ability to view pages of a document, such as a magazine, in a format that looks the same as a conventional printed version of the document and which permit the user to interface with portions of those pages in ways that may not be possible with the conventional printed version of the document." [0001-0002]. McCurdy et al. discloses a technique for enabling a user to turn pages realistically, tear-out pages, mark pages and pass pages along to others. [0014] Further, McCurdy et al. enables users to interact with advertisers and access embedded links, audio and video files. [0014]. Throughout, the only document being accessed in this so-called realistic system, is the final version of a publication, what Applicant has identified as the "commercial grade publication".(See eg page 1, lines 10-31 and page 2, lines 1-22.)

### THE STONE ET AL. PUBLICATION

The Stone et al. publication is directed to a method of using a network of computers to facilitate and control the publishing of presentations to a plurality of print media venues. The problem addressed in Stone et al. is the problem of marketing a completed work to all of the available markets, a problem made more difficult on both ends, seller and buyer, by the fact that the media is non-standardized. [0007-0008] In particular, Stone et al. is directed to a system that reduces the labor and material requirements for the sellers of tickets, passes, admission documents or reserved services.[00049] Stone et al. accomplishes this by directing all "presentations", items to be sold such as tickets, through a controller which automatically standardizes the presentations within the style and editing standards set by the controller.[00030]

### Claim 1

In contrast to the technique of McCurdy et al., which is essentially a system for the manipulation of an electronic copy of an already created commercial grade publication in a manner similar to manipulation of an actual document, while providing additional access electronically to advertisers and such, Applicant's independent Claim 1

( as well as independent Claims 12 and 17) is directed to the creation, via a communications network, of a commercial grade publication from an authored work. As used in the application, the term "commercial grade" publication means "an authored work prepared for commercial publication, such as a book, magazine, newspaper or pamphlet, for example." (See page 1, lines 14-17) These claims further require that editing of the authored work results in the creation of a galley. The galley is a comprehensive final draft of the authored work before publication.(Page 1, line 31 and page 2, line 1) Then, on successful review of the galley, by the author, the resulting commercial-grade publication is advanced for publication. (Page 2, lines 4-5).

No such system is disclosed or suggested whatsoever by McCurdy et al. and Stone et al. McCurdy et al. starts where Applicant's invention leaves off. That is, again, McCurdy et al. discloses a system for electronic manipulation of a previously created commercial grade publication. Stone et al. discloses the automatic creation and modification of media so as to fit a predetermined "standardized" format. Applicant discloses and claims an apparatus and method for the remote electronic creation of a commercial grade publication from an authored work as both of those terms are defined. Further, Applicant's invention requires that the commercial grade publication is published without modification, automatic or otherwise.

Comparing this with the system disclosed in McCurdy et al., it is apparent that McCurdy et al. does not teach or suggest such a remote service provider for editing an authored work for content as required in Claim 1 and the other independent claims. The Examiner concedes this but states that Stone et al. provides this missing element and that it would have been obvious to modify the device disclosed by McCurdy et al. to include the publisher linked to at least one remote service provider for remote electronic editing of the authored work for content. Applicant respectfully disagrees. McCurdy et al. does not teach or disclose Applicant's device for creating a commercial grade publication. McCurdy et al. can fairly be said to teach only the manipulation of a commercial grade publication after it is created. Further, McCurdy et al. does not teach or suggest the use of a remote service provider for editing the authored work for content in the creation of a commercial grade publication for the reason that it is not dealing with authored works.

In order to combine prior art references or modify a prior art reference under 37 U.S.C. 103, there must be some teaching or suggestion in the prior art to make the combination or modification. In this case, the Examiner does not point to any teaching or suggestion in the prior art to add the publisher linked to the at least one service provider for remote electronic editing as required by Applicants' claims, but merely asserts that it would have been obvious for an artisan of the time to do so "because it provides an effective system of edit and content control for the creation and publishing of commercial sales and information-oriented traditional media and electronic presentation in a cost-effective manner" (Page 3) It is not clear to Applicant what the Examiner is suggesting is the motivation here. McCurdy et al., simply put, is a system to allow a person to read an electronic copy of a previously created commercial grade publication as if it were a real book, for example .No editing is required, suggested or legally permitted in most instances.

Most importantly, adding the service provider link for editing to McCurdy et al. as the Examiner suggests would necessarily change the principle of operation of the McCurdy et al. technique. That is, McCurdy et al. is an already functioning technique for manipulating an electronic copy of a previously created commercial grade publication, for example. The editing by a remote service provider prior to the creation of the commercial grade publication as the Examiner suggests adding is completely superfluous to the device.

If the proposed modification of the prior art would change the principle of operation of the prior art device, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti*, 270 F. 2<sup>nd</sup> 810, 123 U.S.P.Q. 349 (CCPA 1959) (see MPEP § 2143.01 at page 2100-99, second column). In the present case, it is unclear to the Applicant what the Examiner proposes to accomplish by the addition of the remote service provider content editing prior to the creation of a commercial grade publication or how it would cooperate with the existing technique. It is, clear however that if any such remote service provider is to be functional then the principle by which McCurdy et al's. technique operates must be changed. Thus, in accordance with *In re Ratti*, it could not have been obvious to make the Examiner's proposed modifications.

The Applicant therefore respectfully submits that Claim 1, as well as independent Claims 12 and 17 which require limitations similar to those in Claim 1, are

not anticipated by, nor obvious over, McCurdy et al. either alone or in combination with Stone et al. and are entitled to allowance along with dependent claims 2-3,5, 7-11; 13, 15-16; and 19-20 respectively.

Still further, Applicant's independent claims 1, 12 and 17 each require the creation of a galley from the content editing. Further, the galley is sent to the author for creation of the commercial grade publication. Still further, the commercial grade publication is distributed without modification. Neither McCurdy et al nor Stone et al., in combination or alone, teach or suggest Applicant's invention as set forth in these independent claims.

**CONCLUSION**

In light of the above, Applicant respectfully requests reconsideration and allowance of Claims 1-3, 5, 7-13, 15-17 and 19-20. If the Examiner should feel that any issue remains as to the allowability of these claims, or that a conference might expedite allowance of the claims, the Examiner is asked to telephone the undersigned attorney.

Applicant intends this to be a complete response. No fee is believed due; however if a fee is due, please charge deposit account number indicated on the transmittal letter.

Respectfully submitted,

SHAFFER & CULBERTSON, L.L.P.

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By: J. Nevin Shaffer, Jr.  
J. Nevin Shaffer, Jr., Reg. No. 29,858  
Russell D. Culbertson, Reg. No. 32,124  
1114 Lost Creek Blvd, Suite 420  
Austin, Texas 78746  
512-327-8932 or 850-934-4124

ATTORNEYS FOR APPLICANT

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Reg. No. 29,858, J. Nevin Shaffer, Jr.